

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JINSONG HE,

Petitioner,

Order Appointing Counsel

03-CV-3745 (NGG)

v.

KENNETH S. PERLMAN,

Respondent.

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GARAUFIS, United States District Judge.

On July 26, 2004, Petitioner Jinsong He, proceeding *pro se*, filed a motion, pursuant to 18 U.S.C. § 3006A, seeking appointment of counsel to assist in his collateral attack upon his State conviction because he is able to write and speak only in Chinese. This motion for appointment of counsel was referred to Magistrate Judge Cheryl L. Pollak for a Report and Recommendation (“R&R”) on July 29, 2004.

On November 17, 2004, Judge Pollak issued her R&R, recommending that the petitioner’s application for appointment be denied without prejudice because “in the absence of a transcript of the proceedings below and of the briefs submitted to the Appellate Division on appeal, this Court cannot say with any degree of certainty at this time that petitioner’s claims are likely to be of substance.” (R&R at 6) (citing Hodge v. Police Officers, 802 F.2d 58, 60 (2d Cir. 1986)). I adopted Judge Pollak’s recommendation in an Order dated January 6, 2005, and dismissed petitioner’s motion for appointment of counsel without prejudice pending receipt of the state court record.

Having now received a copy of the trial transcript in petitioner’s case, it is evident that

petitioner has presented substantial issues for review on this habeas appeal. Therefore, pursuant to 18 U.S.C. § 3006A(a)(2)(B), I hereby appoint Vivian Shevitz, Esq., 46 Truesdale Lake Drive, South Salem, NY 10590, to represent petitioner on this appeal. The respondent is directed to provide petitioner's counsel with the complete record of this case, including the trial transcript and state court record, within twenty (20) days of the date of this Order. Petitioner's counsel shall provide this court and the respondent with a proposed briefing schedule for this appeal no later than ten (10) days after receiving such documentation from respondent. Petitioner's counsel may also move for appointment of an interpreter to facilitate her communications with petitioner.

SO ORDERED.

Dated: June 30, 2005
Brooklyn, NY

/s/ _____
Nicholas G. Garaufis
United States District Judge